

Amendment
Serial No. 09/982,269

Docket No. FR 0001010

REMARKS

Entry of this Amendment and reconsideration are respectfully requested in view of the amendments made to the claims and for the remarks made herein.

Claims 1-10 are pending and stand rejected. Claims 1, 3, 5, 6 and 9 have been amended.

Claims 1-10 stand rejected under 35 USC 103(a) as being unpatentable over Buford (PCT/US97/04574) in view of Simon North (Sam's Teach Yourself XML in 21 days).

Applicant respectfully disagrees with and explicitly traverses the reason for rejecting the claims for the same arguments made in response to the rejection of the claims recited in the prior Office Action. However, in the interest of advancing the prosecution of this matter, the independent claims have been amended for more clearly recite the invention. More specifically, for the claims related to encoding a signal, the claims have been amended to recite a "binary fragment include content and a sequence of the retrieved identification information, wherein said binary fragment includes at least two control bits." No new matter has been added.

Support for the amendment may be found at least on page 4, lines 25-26, which state "...uses the information contained in the Element Declaration Table in order to generate one or more binary fragments BiM-F each binary fragment being associated to a description element of the instance." With regard to claims relating to decoding, these claims have been amended to recite that the fragment is a binary fragment.

As recited in the response to the prior Office Action, the suggested combination does not disclose or suggesting "encoding said description element to be encoded as a fragment comprising said content and a sequence of the retrieved identification information." Buford teaches CT instance object contains tables, which means that the CT instance object includes syntactical elements. Buford does not encode the CT instance objection into binary data. As such, Bulford fails to disclose a material element of the claims.

North discloses XML DTD as a schema to describe information models. However, North is silent with regard to producing a fragment in a binary format. Accordingly, the

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combination of Bulford and North fails to render obvious the claims, as amended, as the combination of Bulford and North fails to recite each element claimed.

A claimed invention is *prima facie* obvious when three basic criteria are met. First, there must be some suggestion or motivation, either in the reference themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine the teachings therein. Second, there must be a reasonable expectation of success. And, third, the prior art reference or combined references must teach or suggest all the claim limitations.

Hence, even if the teachings of Bulford and North were combined, the combined device fails to disclose all the subject matter recited in independent claim 1, for example.

Having shown that the combination of Bulford and North fails to teach or suggest all the elements claimed, applicant submits that the reason for the rejection has been overcome and the rejection can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claim.

With regard to the remaining independent claims, these claims recite subject matter similar to that recited in claim 1 and were rejected citing the same references used in rejecting claim 1. Thus, the remarks made in response to the rejection of claim 1, herein, are also applicable in response to the rejection of the remaining independent claims. Applicant submits that in view of the amendments made to the claims, which are similar to those made to claim 1, and for the remarks made with regard to the rejection of claim 1, which are reasserted, as if in full, in response to the rejection of the remaining independent claims, the reason for the rejection of these claims has been overcome and the rejection can no longer be sustained. Applicant respectfully requests withdrawal of the rejection and allowance of the claims.

The other claims in this application are each dependent from the independent claim discussed above and are therefore believed patentable for the same reasons. Since each dependent claim is also deemed to define an additional aspect of the invention, individual consideration of the patentability of each on its own merits is respectfully requested.

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Although the last Office Action was made final, this amendment should be entered. No matter has been added to the claims that would require comparison with the prior art or any further review. Accordingly, pursuant to MPEP 714.13, applicant's amendments should only require a cursory review by the examiner. The amendment therefore should be entered without requiring a showing under 37 CFR 1.116(b).

For all the foregoing reasons, it is respectfully submitted that all the present claims are patentable in view of the cited references. A Notice of Allowance is respectfully requested.

Respectfully submitted,

Daniel Piotrowski
Registration No. 42,079


By: Steve Cha
Attorney for Applicant
Registration No. 44,069

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Mail all correspondence to:
Daniel Piotrowski, Registration No. 42,079
US PHILIPS CORPORATION
P.O. Box 3001
Briarcliff Manor, NY 10510-8001
Phone: (914) 333-9608
Fax: (914) 332-0615